

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

CAROL S. MARCELLIN, individually, and as Co-Administrator of the Estate of Charles E. Hollowell, deceased, and JESSICA HOLLOWELL-McKAY, as Co-Administrator of the Estate of Charles E. Hollowell, deceased,

Plaintiffs,

v.

HP, INC., and STAPLES, INC.,

Defendants.

**NOTICE OF MOTION**

**Civ. No. 1:21-cv-00704-JLS**

**MOTION BY:**

Plaintiffs Carol S. Marcellin and Jessica Hollowell,  
through their attorneys Faraci Lange, LLP

**DATE, TIME AND PLACE OF  
HEARING:**

To be determined by the Court

**SUPPORTING PAPERS:**

Declaration of Stephen G. Schwarz, Esq. together with Exhibits A-DD, and Memorandum of Law in Support of Motion to Compel Discovery

**RELIEF DEMANDED:**

Plaintiffs respectfully request an ORDER:

- A. Pursuant to F.R.Civ. P. 37 (B)(iii) Compelling Defendant HP to provide complete answers to Plaintiffs' Second Set of interrogatories;
- B. Pursuant to F.R.Civ. P. 37 (B)(iv) compelling Defendant HP to provide responses to Plaintiffs' Second Request for the Production of Documents;
- C. Pursuant to F.R.Civ. P. 37 (B)(iii) and Local Rule 26(d) Compelling Defendant Staples to provide complete responses to Plaintiffs' First Set of Interrogatories as well as a Privilege Log as outlined in Exhibit G;
- D. Pursuant to F.R.Civ. P. 37 (a)(3)(B)(iii) compelling Defendant Staples to provide complete responses to Plaintiffs' Second Set of Interrogatories to Staples;

- E. Pursuant to F.R.Civ. P. 37 (a)(3) (B)(iv) compelling Defendant Staples to provide complete responses to Plaintiffs' Second Request for the Production of Documents;
- F. Pursuant to F.R.Civ. P. 37 (a)(3) (B)(ii) compelling Defendant Staples to produce a witness pursuant to Plaintiffs' Rule 30(b)(6) Notice;
- G. Pursuant to F.R.Civ. P. 37 (a)(5) (A) compelling Defendants to pay Plaintiffs' reasonable expenses incurred in making this motion, including attorneys' fees;
- H. Pursuant to F.R.Civ.P. 37(d)(1)(A) (i) and (ii) for sanctions against Defendant Staples for failing to produce a witness pursuant to a rule 30(b)(6) Notice and failing to respond to fully respond to Plaintiffs' First Set of Interrogatories and First Request for the Production of Documents and failing to respond at all to Plaintiffs' Second Set of Interrogatories and Requests for the Production of Documents, including the striking of Defendant Staple's Answer in this case and directing all of the facts alleged against Defendant Staples as being established as true at trial or such other sanctions as this Court deems appropriate;
- I. For such other and further relief as to this Court seems just and proper.

**REPLY PAPERS:**

Plaintiffs intend to file and serve reply papers. The opposing parties are therefore required to file and serve opposing papers as directed by the Court.

DATED: July 25, 2023

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